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| In re Application of: DEFREES ET AL. | : | DECISION |
| U.S. Application No.: 10/586,166 | : | |
| PCT Application No.: PCT/US2005/002522 | : | ON |
| Int. Filing Date: 26 January 2005 | : | |
| Priority Date: 26 January 2004 | : | PETITION |
| Atty Docket No.: 40853-01-5147-US | : | |
| For: BRANCHED POLYMERIC SUGARS AND | : | |
| NUCLEOTIDES THEREOF | : | UNDER |
| | : | |
| | : | 37 CFR 1.181 |

This is in response to the submission under 37 CFR 1.181 filed on 24 July 2008.

BACKGROUND

On 26 January 2005, applicant filed international application number PCT/US2005/002522, which claimed priority to an earlier United States application filed 26 January 2004. The thirty month national stage deadline expired on 25 July 2006.

On 14 July 2006, applicant filed national stage papers in the United States Designated Office (DO/EO/US). The submission included, inter alia, the requisite basic national fee.

On 24 July 2008, applicant filed the present petition under 37 CFR 1.181.

Applicant has requested correction of a typographical error "60/643,347" filed on 10 January 2005 to --60,643,437--. This appears to be a data entry error and will be corrected and a filing receipt will be issued reflecting the correction.

Applicant also requested correction under 37 CFR 1.78(a)(2)(i) of the relationship between the present application and priority international applications PCT/US04/39712, PCT/US05/00799, and PCT/US04/40709, to reflect that the present application is a continuation-in-part of the '712, '799, and '709 applications.

DISCUSSION

Regarding the '712, '799, and '709 international applications, 37 CFR 1.78 (a)(2) states in relevant part:

(i) Except for a continued prosecution application filed under 37 CFR 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see 37 CFR 1.14).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111 (a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371 (b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121 or 365(c) to such prior-filed application.


Applicant has not met the requirements in that the request was submitted later than four months from the date on which the national stage commenced or sixteen months from the filing date of the prior-filed application.

It is further noted that the '712 application is not listed as a priority document in the international application publication. Rather, the international application lists PCT/US04/03971.

An appropriate petition under 37 CFR 1.78(a)(3) along with the requisite \$1410.00 petition fee would be required to make the requested corrections.

CONCLUSION

Applicant's petition is GRANTED in part as outlined above. The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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Attachment: Corrected filing receipt